

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL D. HARRIS,

Petitioner,

Case No. 05-74316

v.

HONORABLE AVERN COHN

HUGH WOLFENBURGER,

Respondent.

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**ORDER DENYING PETITIONER'S MOTION FOR APPOINTMENT  
OF COUNSEL AND MOTION FOR EVIDENTIARY HEARING**

This is a habeas case under 28 U.S.C. § 2254. Before the Court is Petitioner Michael D. Harris' (Petitioner) Motion for Appointment of Counsel and Motion for Evidentiary Hearing. For the reasons that follow, the motion is DENIED.

**I. Motion for Appointment of Counsel**

There exists no constitutional right to the appointment of counsel in civil cases, and the court has broad discretion in determining whether counsel should be appointed. Childs v. Pellegrin, 822 F.2d 1382, 1384 (6th Cir. 1987) ("[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right.") (internal quotation omitted). A habeas petitioner may obtain representation at any stage of the case "[w]henever the United States magistrate or the court determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). In this case, the Court determines after careful consideration that the interests of justice do not require appointment of counsel at this time.

## II. Motion for Evidentiary Hearing

Rule 8, Rules Governing Section 2254 Cases in the United States District Courts

states, in pertinent part:

If the petition is not dismissed at a previous stage in the proceeding, the judge, **after the answer and the transcript and record of state court proceedings are filed**, shall, upon a review of those proceedings and of the expanded record, if any, determine whether an evidentiary hearing is required.

See Rule 8, Rules Governing Section 2254 Cases (emphasis supplied).

Respondent's Answer to Petitioner's application for writ of habeas corpus has not yet been filed and the deadline for a response is May 17, 2006. Accordingly, the request for an evidentiary hearing at this point in the proceedings is premature.

SO ORDERED.

Dated: December 21, 2005  
Detroit, Michigan

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s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE